

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

United States of America,
Plaintiff
v.
Matthew Dale Dewberry,
Defendant

2:12-cr-00118-JAD-VCF-2

Order Granting Motion

[ECF No. 182]

On April 24, 2014, I sentenced Matthew Dale Dewberry¹ to 65 months' imprisonment to run concurrent to the eight-year sentence imposed in Texas state-court case number 1211117091, which Dewberry was serving when he was transferred to federal custody to answer the charges in this case. Dewberry has filed a "motion for accreditation of jail time," arguing that his federal sentence has been improperly credited.²

The interaction between Dewberry's state and federal sentences was discussed at length at Dewberry's sentencing hearing. Defense counsel requested that Dewberry's federal sentence run from the time he was transferred from the Texas DOC to the custody of the U.S. Marshal and that it run concurrent to Dewberry's Texas state-court sentence. Government counsel represented that, though the BOP makes ultimate custody determinations, it was her understanding that Dewberry would get federal credit for the time he'd spent in federal pre-trial detention, and she did not object to Dewberry's federal sentence being imposed concurrent to his state-court sentence. The parties represented that Dewberry would be eligible for parole from his state-court sentence shortly after he was returned to state custody, so he would likely be transferred back to the federal BOP to finish the

¹ Also known as Robert C. Gruszczyuski.

² ECF No. 182.

1 remainder of his federal sentence.³ Based on these representations, I sentenced Dewberry to a
2 guideline-range sentence of 65 months in prison to run concurrent to his state-court sentence.

3 Dewberry represents that he has received from the Federal Designation and Computation
4 Center a computation sheet reflecting that his federal sentence did not start until his sentencing on
5 April 24, 2014, so he has not been given credit for the 13 months he spent in federal pre-trial
6 detention as contemplated by the court and the parties at his sentencing hearing. Though I recognize
7 that “statements by a district court regarding credit for time served are only recommendations,”⁴ I
8 take this opportunity to clarify that it was my intention that Dewberry’s 65-month federal sentence
9 begin running from the date that he was transferred from the Texas Department of Corrections to the
10 custody of the U.S. Marshal to answer the charges in this case. I defer to the BOP to determine when
11 this transfer occurred because it is not clear from the record before me.⁵

24 ³ Dewberry is still incarcerated at a Texas state prison and has not yet been paroled on his state-court
25 sentence. <https://offender.tdcj.texas.gov/OffenderSearch/search.action>

26 ⁴ See *United States v. Wilson*, 503 U.S. 329, 333 (1992).

27 ⁵ Dewberry indicates that he was transferred to federal custody in March 2013, and the first entry in
28 this case against him is April 9, 2013, so this transfer likely occurred in the Spring of 2013.

Conclusion

IT IS HEREBY ORDERED that Dewberry's motion for accreditation of jail time [ECF No. 182] is GRANTED. The Clerk of Court is directed to SEND a copy of this order and a copy of Dewberry's judgment of conviction [ECF No. 167] to the Federal Bureau of Prisons and to Dewberry at:

**Robert Charles Gruszczynski
TDCJ Number 1829049
Powledge Unit
1400 FM 3452
Palestine, TX 75803**

Dated 7th day of March, 2017.



Jennifer A. Dorsey
United States District Judge